

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

ANTHONY D. MORRISON,	)	
	)	
Petitioner,	)	
vs.	)	NO. CIV-16-0268-HE
	)	
JASON BRYANT, Warden,	)	
James Crabtree Correctional	)	
Center,	)	
	)	
Respondent.	)	

**ORDER**

Petitioner Anthony D. Morrison, a state prisoner appearing *pro se*, filed this action pursuant to 28 U.S.C. § 2254 seeking habeas relief. Consistent with 28 U.S.C. §636(b)(1)(B), (C), the matter was referred to Magistrate Judge Suzanne Mitchell, who recommends that the petition be summarily dismissed on filing. *See* Rule 4, Rules Governing Section 2254 Cases in the United States District Courts. The magistrate judge concluded that the petition is time-barred under the one-year limitations period set out in the Antiterrorism and Effective Death Penalty Act. 28 U.S.C. § 2244(d). She determined the one year period expired on February 25, 2015, and petitioner was not entitled to statutory or equitable tolling of the limitations period.<sup>1</sup>

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<sup>1</sup>*The magistrate judge recognized, having raised the limitations issue sua sponte, that “before acting on its own initiative, a court must accord the parties fair notice and an opportunity to present their positions.” Report and Recommendation, Doc. 8, p. 3 (quoting Day v. McDonough, 547 U.S. 198, 209 (2006)). She noted that petitioner had the requisite notice “by this Report and Recommendation, and he may present his position by filing an objection to the Report and Recommendation.” Id.*

Petitioner sought and received several extensions of time within which to object to the Report and Recommendation. He then filed “Petitioner’s Motion to Forfeit his right to Object,” in which he asks the court to dismiss the action with prejudice. In his motion, petitioner acknowledges “his fault,” but it appears he may be confused and believe that the problem with his claims is one of procedural default rather than timeliness. Regardless, the court agrees with the magistrate judge that petitioner’s claims are time-barred and he has not shown a basis for tolling the limitations period.

Accordingly, the court **ADOPTS** Magistrate Judge Mitchell’s Report and Recommendation and dismisses the petition for writ of habeas corpus as being untimely. The court also **DENIES** a certificate of appealability, as it finds petitioner has not made “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2).

**IT IS SO ORDERED.**

Dated this 9th day of August, 2016.

  
JOE HEATON  
CHIEF U.S. DISTRICT JUDGE